



Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
Library of Congress
Washington, D.C.

In re

DETERMINATION OF ROYALTY
RATES AND TERMS FOR
EPHEMERAL RECORDING AND
DIGITAL PERFORMANCE OF SOUND
RECORDINGS (*WEB IV*)

DOCKET NO. 14-CRB-0001-WR
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Supplemental Testimony of Daniel L. McFadden

June 1, 2015

Before the
COPYRIGHT ROYALTY BOARD
LIBRARY OF CONGRESS
Washington, DC

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In the Matter of)	
)	
DETERMINATION OF RATES AND TERMS)	Docket No. 14-CRB-0001-WR
FOR DIGITAL PERFORMANCE IN SOUND)	
RECORDINGS AND EPHEMERAL)	
RECORDINGS (WEB IV))	
)	

SUPPLEMENTAL TESTIMONY OF

DANIEL L. MCFADDEN

Emeritus Professor of Economics
University of California at Berkeley
and
Presidential Professor of Health Economics
University of Southern California

I. Qualifications

My name is Daniel L. McFadden. I previously filed testimony in this matter ("McFadden Testimony").¹ As part of the McFadden Testimony, I provided a summary of my qualifications relevant for this proceeding and a copy of my CV.

During my direct testimony, I sought to provide a response to Professor Hauser in the form of a very simple review of his survey and response data. Upon objection, I was not permitted to provide this testimony to the Judges, but I understand that the Judges have now permitted my testimony. What follows is the testimony that I would have provided during my direct examination.

II. Direct Testimony in Response to Professor Hauser

I have reviewed questions asked in Professor Hauser's qualitative survey that were not discussed in the Hauser Rebuttal, specifically Questions 34 and 37 listed in Appendix D of the Hauser Rebuttal.²

Professor Hauser's response data for Questions 34 and 37 contradicts his opinion that subjects in my survey failed to understand product features and incentives, thereby rendering their responses unreliably predictive for market behavior.

Specifically, his response data shows that:

- My incentive alignment mechanism was successful in that more than 80% of participants in Professor Hauser's survey indicate that they would spend their own money in a real market to acquire the options that they selected in the survey (Question 34);
- Over 85% of participants self-report understanding the features in the survey (Question 37).

I find these levels of understanding to be sufficient for my statistical procedure to provide reliable estimates of the part-worths of the features presented in my survey and conclude that

¹ Web IV. Testimony of Daniel L. McFadden, October 6, 2014.

² Web IV. Rebuttal Testimony of John R. Hauser, Sc.D., February 23, 2015.

Professor Hauser provides no scientific basis for the high thresholds that he opines are necessary for a scientifically reliable survey. I discuss these conclusions in greater detail below.

III. Over 80% of Participants Would Make the Same Choices if They Were Spending Their Own Money, Demonstrating that Participants' Incentives Were Sufficiently Aligned

In Question 34, Professor Hauser directly asked his participants, "if you were presented with these options and had to spend your own money, would you choose the same options?"³ This question is ambiguously worded, inviting a "no" response if survey responses were accurate, but subjects envision choosing existing market alternatives that were unavailable in the survey. While this is likely to overstate the number of subjects who were incorrectly incentivized, the question provides a lower bound on the degree of consistency between the responses in the survey and market behavior.⁴

With this caveat in mind, I considered Professor Hauser's own coding of the participants' responses to this question. He finds that 83% of respondents say that they would make the same choices, 13.2% state that they would make different choices, and 3.8% of the responses are ambiguous. Among the seven participants recorded as saying that they would make different choices is Steven S., who responded "Probably," which seems to be a miscoding.⁵

³ Hauser Rebuttal, Appendix D, p. D-13.

⁴ This question is poorly worded for two reasons. First, participants in my survey did not have the option to forego use of all the presented plans. Instead, they were asked, "among the 3 plans shown, which plan do you most prefer?" Despite having a favorite among the presented plans, a participant may choose to reject all three were they available in a real market, therefore not spending any money. Second, the respondent may prefer other services, such as existing Pandora or Spotify offerings, to those presented in the choice sets; Professor Hauser's question does not limit the possible choices to only those presented in the choice sets. A more appropriately worded version of this question would be, "If you were presented with only these options and had to choose one of them, would you spend your own money on the option that you choose?" The absence of the first two qualifications may lead respondents to respond negatively, when, in fact, their responses to the choice sets are consistent with the choices that they would make in a market.

⁵ IHM_EXP-NAB-003171. Another is Christopher N., who says "I definitely thought about that, and I think, yes I would for some of them, but not all of them." IHM_EXP-NAB-002580. This response shows that Christopher was thinking about how he would spend his own money when answering the choice sets. It may also indicate that he was thinking whether he would choose one of the plans in the

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The responses to Question 34 indicate that the incentive alignment in my survey was robust and effective. The essential feature of incentive alignment in conjoint surveys is to induce truthful responses, rather than inattentive or careless opinion. While incentive alignment works best when subjects clearly understand the stakes involved, there is substantial evidence that response quality is not degraded so long as respondents respond to instructions to pay attention and choose as they would in a real market, even if they do not understand specifically how the incentive alignment operates.

A paper by Dong, Ding, and Huber (2010) compares two incentive alignment approaches with a non-incentive aligned conjoint survey.⁶ They find different degrees of participant understanding and satisfaction between the two incentive alignment mechanisms. In comparing the two incentive alignment approaches, however, they conclude that

Accordingly, the value of the [incentive alignment] mechanism may depend less on a respondent's understanding why it works or liking how it works and more on a simple alignment of what happens in a conjoint exercise with what happens in the marketplace.⁷

In other words, the real value of an incentive alignment mechanism is to focus participants on responding as they would in a real market. Even if comprehension isn't perfect, focusing the participants' minds on market choices using incentive alignment improves the accuracy of the responses.

At the end of the description of the incentive alignment mechanism shown to each participant in my survey, the page states:

To guarantee that you get a streaming service that is worth more to you than its cost, try to weigh service features and costs carefully and accurately so that the choices you indicate tell us whether various features of streaming service plans are truly worth their cost. [emphasis in original]

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choice set over plans that are actually available in the market, highlighting the relevance of the defective wording of this question.

⁶ Dong, Songting, Min Ding, and Joel Huber. 2010. "A Simple Mechanism to Incentive-Align Conjoint Experiments." *International Journal of Research in Marketing*. 27: 25-32.

⁷ Dong et al. (2010), p. 30.

Even if participants don't completely understand the description of the incentive alignment mechanism, they are left with a clear takeaway message: to get the most valuable reward, think carefully and answer truthfully. Here, "truthfully" means that participants make the same choices as they would in a real market, choices that arise from weighing the costs and benefits of the services.

IV. Over 85% of Participants Self Report Understanding the Features Sufficiently to Provide Accurate Answers, Demonstrating that the Survey Data are Reliable

In the Hauser Rebuttal, Professor Hauser does not discuss one of his "close out" questions, which asks participants, "did you or did not understand the explanations of features in the survey?"⁸ He did code the responses to this question, however, and I reviewed his classifications of the participants. He records 84.9% of participants self-reporting that they understood the features discussed in the choice sets, while 11.3% report not understanding all the features, and 3.8% give answers that are ambiguous.

While Professor Hauser focuses on his (or, more accurately, his staff's) assessment of the degree of understanding for each participant, this question gives insight into whether the participants themselves believed that they understood the features sufficiently to choose among the options. A participant may not fully understand every feature, but may understand enough to weigh the choices, especially when the uncertain features are not relevant to his decision making.⁹ Furthermore, some respondents may understand features, but may not be able to explain them.¹⁰

Professor Hauser requires his subjects to engage in a memory test—to recall from memory or experience and verbalize definitions judged to be correct by Professor Hauser's coders for each of

⁸ Hauser Rebuttal, Appendix D, p. D-14.

⁹ For example, consider the case of Sherry M. She responds to this question by saying: "No, I think I understood them pretty much and I looked at the definition. Maybe I didn't understand all of them too much. The basic of me listening to music is pretty much selecting an artist or selecting a--and I don't really go into too much detail when I listen to the music." IHM_EXP-NAB_003125.

¹⁰ For example, Michael B. states that he "did understand" the features of the survey, but could not say why that was. Professor Hauser concludes that Michael himself does not actually believe that he understands the features.

the product features that I use in my survey. This cognitive task is quite different from the cognitive task of evaluating product profiles, where the reliability of a survey simply requires that participants perform this task in a survey experiment similarly to the way they would in a real market. Professor Hauser's "close out" questions demonstrate that the participants generally believed that they had sufficient information and understanding to choose their preferred plans from among those presented.

Executed on May 28, 2015 at Berkeley, California.

A handwritten signature in cursive script that reads "Daniel McFadden". The signature is written in black ink and is positioned above a horizontal line.

Daniel L. McFadden

CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2015, I caused a copy of the foregoing

SUPPLEMENTAL TESTIMONY OF DANIEL L. McFADDEN [NR] to be served via

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